

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DOMINIQUE DAVON GORDON,)	Case No.: 4:19 CV 1307
)	
Petitioner)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
WARDEN MARK K. WILLIAMS,)	
)	
Respondent)	<u>ORDER</u>

Currently pending before the court in the above-captioned case is Petitioner Dominique Davon Gordon’s (“Petitioner” or “Gordon”) Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, filed on June 6, 2019. (ECF No. 1.) For the foregoing reasons, the court adopts the Magistrate Judge’s Report and Recommendation (“R&R”), and denies the Petition.

Petitioner is currently incarcerated at the Federal Correctional Institution in Elkton, Ohio, where he is serving a 240-month term—imposed by the United States District Court for the Eastern District of Tennessee—following his guilty plea of conspiracy to distribute, and possession with the intent to distribute at least 100 grams of heroin. On October 4, 2019, the Petition was assigned to Magistrate Judge William H. Baughman, Jr. (“Magistrate Judge Baughman” or “Judge Baughman”). On September 11, 2020, Petitioner filed a Motion for R&R regarding his habeas corpus petition, arguing that Respondent Warden Mark K. Williams (“Respondent” or “Warden Williams”) had forfeited his right to oppose the Petition by failing to file any response to the court’s orders. (ECF No. 14.) Thereafter, on September 18, 2020, Respondent filed a motion to dismiss the Petition for lack of jurisdiction, arguing that a § 2241 petition was inappropriate under the circumstances. (ECF No. 16.) On August 27, 2021, Magistrate Judge Baughman filed his R&R to the court,

recommending that Petitioner's motion for default judgment be denied, and Respondent's motion to dismiss granted. (ECF No. 17.)

In concluding his R&R, Magistrate Judge Baughman notes that Petitioner must file any objections to the R&R within fourteen (14) days. (R&R at PageID #160, ECF No. 17.) That notice is consistent with Local Rule 72.3(b) which in relevant part states that, "[a]ny party may object to a Magistrate Judge's proposed findings, recommendations or report made pursuant to Fed. R. Civ. P. 72(b) within fourteen (14) days after being served with a copy thereof, and failure to file timely objections within the fourteen (14) day period shall constitute a waiver of subsequent review, absent a showing of good cause for such failure." Local Rule 72.3(b). Accordingly, Petitioner had until September 10, 2021, to file any objections to the R&R, or his Petition would be waived. As of September 15, 2021, the court has yet to receive any objections from Petitioner. Therefore, under Local Rule 72.3(b), the court finds that Petitioner has waived his right to review. The court finds, after careful *de novo* review of the Magistrate Judge's R & R and all other relevant documents in the record, that Judge Baughman's conclusions are fully supported by the record and controlling case law. *See Cowherd v. Million*, 380 F.3d 909, 912 (6th Cir. 2004). Accordingly, the court hereby adopts Judge Baughman's R & R (ECF No. 17) in its entirety and dismisses Petitioner's Petition (ECF No. 1).

Under 28 U.S.C. § 1915(a)(3), the court certifies that an appeal from this decision could not be taken in good faith and that there is no basis on which to issue a certificate of appealability. Fed. R. App. P. 22(b); 28 U.S.C. § 2253(c).

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

September 15, 2021